CGB-0C-0190

THE CALEB CRUMP SHOW
Caleb J. Crump
P. O. Box 53454
Albuquerque, NM 87153
Telephone: (505) 315-1748 (Cell)

RECEIVED & INSPECTED

JAN 3 - 2006

FCC - MAILROOM

December 29, 2005

VIA FEDERAL EXPRESS

Federal Communications Commission 445 12th Street, SW Washington, DC 20554

Re: **PETITION FOR EXEMPTION FROM**

CLOSED CAPTIONING REQUIREMENTS

FOR THE CALEB CRUMP SHOW

Ladies and Gentlemen:

Pleased find enclosed a petition to the Federal Communications Commission seeking exemption from the requirement to provide closed captioning for *The Caleb Crump Show*. The request for exemption is being made under the provisions of 47 C.F.R. Section 79.1(d)(8) and Section 79.1(f).

Please advise if you have questions on this matter or if I may otherwise be of assistance.

Very truly yours,

CALEB J. CRUMP

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

In re: *The Caleb Crump Show* Caleb J. Crump, Petitioner

RECEIVED & INSPECTED

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PETITION FOR EXEMPTION FROM CLOSED CAPTIONING REQUIREMENTS

COMES NOW, Petitioner, Caleb J. Crump, and for his Petition for Exemption From Closed Captioning Requirements under 47 C.F.R 79.1, he states and affirms that:

A. Background information for The Caleb Crump Show

- 1. Petitioner is the owner and producer of *The Caleb Crump Show* ("The Show"). The show is an Albuquerque-based, half-hour weekly urban variety television program that caters to a young-adult audience, with an emphasis on providing on-site reports from local events likely to be of interest to viewers. One show might feature a report on a recent musical concert; another, an interview with a celebrity; yet another, a report from a "happening" night club. In addition to the special features, the Show has reoccurring features such as fashion shows, "rapping ciphers", "shout-outs," and dance routines.
- 2. A primary purpose of the Show is to afford Petitioner the opportunity to develop his professional skills in creating, producing, and performing in an urban variety television program in the hope that *The Caleb Crump Show* may in the future be syndicated on a regional or national basis.
- 3. The Show has been broadcast, off and on, since 2002 on a number of Albuquerque, New Mexico television stations, as follows:

Dates: February 2002 - May 2004

Station: KOB TV NBC

Time slot: Saturday 12:00 to 12:30 AM

Cancelled by KOB

Dates: June 2004 - May 2005 Station: UPN 50 / KASY TV

Time slot: Saturday 12:00 to 12:30 AM Cancelled by UPN 50 / KASY TV

Dates: July 2005 - August 2005

Station: CASA Fox 2

Time slot: Sunday 12:00 to 12:30 AM

Time slot was only available during Summer 2005

4. Petitioner has a one-year commitment from UPN 50 / KASY TV to run The Show on Channel 50, beginning December 31, 2005, on Saturday night from 12:00 to 12:30 AM. Contact information for this channel:

UPN 50 / KASY TV 8341 Washington Street, NE Albuquerque, NM 87113

Phone: 505.797.1919 Fax: 505.344.1145

- 5. Petitioner has been unable to interest local television stations in carrying The Show as part of their program offerings. Instead, stations have been willing to sell a half-hour block of time to Petitioner for The Show, much as they would sell time to an infomercial or other paid programming. This is also arrangement with UPN 50 / KASY TV discussed immediately above.
- 6. Petitioner purchases a half-hour block of time and then develops and produces The Show. Each episode of the Show is developed from video shot live on location during the previous weekend; that is, video shot by Petitioner on a Friday or Saturday night while covering a local event will be edited down to a twenty-three (23) minute show for broadcast the following weekend. Participants at the event can watch The Show the following week and see themselves and their friends on television. The format has proven popular with the target audience, which allows Petitioner to sell advertising spots during the Show.
- 7. The Show's format places enormous demands on Petitioner. On a week to week to week basis, he needs to make arrangements for attending a local event; develop an outline for shooting; prepare for his role as host and contributor to The Show; contact advertisers and obtain (sometimes develop) content for the commercials to be run during The Show; edit the video shot on location into a 23 minute segment; assemble the edited video and advertising spots into a final version of The Show; and deliver The Show to the television station in advance of broadcast so that it can be reviewed and scheduled for broadcast. Petitioner hires a cameraman to shoot the video, but all other tasks are performed by the Petitioner.
- B. Petitioner is exempt from the requirement to provide for closed captioning for *The Caleb Crump Show*, under 47 C.F.R. Section 79.1(d)(8), which authorizes an exemption from the captioning requirements for video programming that is (1) locally produced, (2) has no repeat value, (3) is of local interest, (4) is not news programming, and (5) for which the "electronic news room" technique of captioning is unavailable.
- 1. Petitioner meets the first test for this exemption as The Show is exclusively produced by Petitioner in Albuquerque, New Mexico. Further almost all of the video used on The Show will be shot locally.
- 2. Petitioner meets the second test as The Show's content is topical and has no repeat value. As discussed above, The Show features a local event that in most cases will have occurred during the weekend prior to the broadcast of The Show. The passage of time makes each

such episode of The Show more and more irrelevant and uninteresting to viewers.

- Petitioner meets the third test as the primary focus of The Show is to provide relevant local programming covering concerts, openings, happenings, and other events in or around Albuquerque and of interest to targeted viewers. During 2005, episodes of The Show featured the following local events:
 - a. New Year's Party at Hyatt Regency Hotel (Albuquerque)
 - b. Martin Luther King Jr. Parade (Albuquerque)
 - c. Valentine's Day at Albuquerque Hilton Hotel
 - d. Cinco de Mayo Celebration in Downtown Albuquerque
 - e. Grand Opening of McDonalds restaurant (Roswell, NM)
 - f. World Children's Day Block Party at Albuquerque Convention Center
 - g. Cowboys Night Club (Albuquerque)
 - h. New Mexico State Fair (Albuquerque)
 - i. Teen night at Roller King (Albuquerque)
 - j. Grand opening of Santa Fe Place Mall (Santa Fe, NM)
 - k. Summer Festival at Civic Plaza (Albuquerque)
- 4. Petitioner meets the fourth test as The Show is not news programming but rather is paid programming in the nature of entertainment programming.
- 5. Petitionermeets the fifth and final test as the "electronic news room" technique of captioning is unavailable. The Show does not employ a news script computer or tele-prompter from which such captioning could be derived.
- 6. For these reasons, Petitioner states that he fully meets the eligibility criteria for the exemption, and he respectfully requests that the Commission grant his request for an exemption from the closed captioning requirements under the provisions of the Commissions Rules in Section 79.1(d)(8).
- C. Petitioner is exempt from the requirement to provide closed captioning for *The Caleb Crump Show* under 47 C.F.R. Section 79.1(f), which authorizes an exemption from the captioning requirements for video programming where such requirements would impose an undue burden on the video programming provider or video owner. Consistent with the meaning of "undue burden" as defined in 47 U.S.C. §613(e), a requirement that Petitioner provide for closed captioning would constitute a significant difficulty for Petitioner.
- 1. As discussed above in paragraph A.7, enormous demands are currently placed on the Petitioner to develop and produce The Show. He routinely spends fifty-five to sixty (55-60) hours per week in performing all of the necessary activities in furtherance of The Show. Due to financial constraints further developed below, Petitioner is unable to hire employees or contractors (other than a cameraman) to assist him in performing such tasks.
- 2. The addition of closed captioning to The Show would further increase Petitioner's workload

and be significantly difficult if not impossible from a scheduling standpoint. Video for a show is shot usually on a Friday or a Saturday evening. The final show must be delivered to the television station Thursday afternoon. In between, Petitioner must edit the footage down to the rough requirements for The Show; obtain video for the advertising spots, and develop and produce The Show. There barely exists enough time at present for Petitioner to complete all of these necessary tasks in a timely manner.

- 3. Petitioner does not own the software and hardware system necessary for adding closed captioning to The Show. He would need to contract for such services and arrange for delivery of the video to the service. Even employing hand delivery or an express carrier, a delay of at least one and more likely two or three days would be incurred. Such a delay would make production of The Show infeasible.
- 4. For these reasons, Petitioner states that he fully meets the eligibility criteria for the exemption, and he respectfully requests that the Commission grant his request for an exemption from the closed captioning requirements under the provisions of the Commissions Rules in Section 79.1(f).
- D. Petitioner is exempt from the requirement to provide closed captioning for *The Caleb Crump Show* under 47 C.F.R. Section 79.1(f), which authorizes an exemption from the captioning requirements for video programming where such requirements would impose an undue burden on the video programming provider or video owner. Consistent with the meaning of "undue burden" as defined in 47 U.S.C. §613(e), a requirement that Petitioner provide for closed captioning would constitute a significant expense for Petitioner.
- 1. Petitioner has researched the cost of acquiring a closed captioning system and determined that an acceptable system can be obtained for \$3,000. The system, named ADDrollupCC, is comprised of software and hardware and is available from Closed Caption Maker of Baltimore, Maryland. Once acquired, to utilize such a system Petitioner would have to hire a transcriber to encode The Show's video for line 21 captioning. The weekly cost of a transcriber is estimated to be \$64.00. The first year cost of a captioning system and weekly transcription would total \$6,328.
- 2. Alternatively, closed captioning services can be obtained from a number of providers. Most of such providers are located outside of the State of New Mexico, but there is one provider located in Albuquerque. The company is called NM Captioning, and their services are priced competitively with out-of-state providers, namely, \$10 per minute of programming. The Show contains 23 minutes of programming, plus an additional 7 minutes of advertising not subject to the captioning requirements. Therefore, the cost for closed captioning would total \$230 per show, or \$11,960 per year.
- 3. During the past four years, Petitioner has had great difficulty in making The Show profitable. The reason that The Show has intermittently appeared on various Albuquerque television stations is that Petitioner has struggled in making ends meet. The biggest hurdle has been selling advertising at rates to allow The Show to be at least sustainable, if not very profitable.

On the one hand advertisers like the fact that The Show has attracted a desirable audience of young adults. On the other, The Show has always been broadcast in the midnight to 12:30 AM time slot, which is deemed undesirable by most advertisers. A further hurdle is that in the Albuquerque marketplace advertising rates are generally quite low in that time period. For example, a thirty- second spot on UPN 50 / KASY TV will typically cost \$20 on Saturday night between midnight and 12:30 AM. While Petitioner tries to obtain higher rates from advertisers on The Show, the spot market rate holds down potential advertising revenues which might otherwise be realized for The Show.

- 4. The economics of The Show can best be seen by reviewing Petitioner's federal tax return fo for 2004. A copy is attached to this petition, identified as Exhibit A. The Petitioner's social security number has been redacted, but otherwise the attachment is a full and complete copy of Petitioner's Form 1040 and Schedule C for 2004. As can be seen, Petitioner's only source of income derives from The Show, and in 2004 The Show only realized a net profit of \$9,823.16. In point of fact, the net profit of The Show constitutes the entirety of Petitioner's income for 2004.
- 5. The requirement of adding closed captioning to The Show would be an extreme financial burden on Petitioner. Under any of the available options, the costs associated with closed captioning would be prohibitive in light of expected revenues from the Show and force Petitioner to cease operations.
- 6. Petitioner has additionally considered alternatives to closed captioning, but does not any of the alternatives suitable for The Show. One alternative considered was the use of visible captioning at the bottom of the screen. However, such an approach still involves significant delay, plus the cost associated with transcription. Another was the use of a sign language interpreter, however, The Show is not scripted and is shot on location where visibility and logistics would make signing difficult. Petitioner would additionally incur significant costs for the interpreter. Finally, Petitioner has considered asking advertisers to additionally fund closed captioning. However, he believes that such requests would not be well received as advertisers already express concerns regarding the value of advertising on the Show in terms of value added to their business.
- 7. For these reasons, Petitioner states that he fully meets the eligibility criteria for the exemption, and he respectfully requests that the Commission grant his request for an exemption from the closed captioning requirements under the provisions of the Commissions Rules in Section 79.1(f).

E. Petitioner supports closed captioning and will pursue other avenues to provide closed captioning for *The Caleb Crump Show*.

1. Petitioner asks that the Commission understand he fully supports its rule-making concerning closed captioning. He makes this petition to the Commission solely due to his inability to provide closed captioning at this time.

- 2. Petitioner intends to investigate whether a grant might be available to allow him to purchase a closed captioning system. If such a grant is identified, Petitioner is willing to pay costs associated with transcription and make closed captioning available to The Show's viewers.
- 3. Petitioner additionally intends to solicit one or more advertisers for the specific purpose of providing closed captioning for The Show. If such an advertiser(s) can be found, Petitioner will make every effort to facilitate adding closed captioning to The Show.

WHEREFORE, Petitioner respectfully requests an exemption from the closed captioning requirements.

Caleb J. Crump P.O. Box 53454 Albuquerque, New Mexico 87153 (505) 315-1748 (Cell) Date: December 29, 2005 STATE OF NEW MEXICO) ss. COUNTY OF BERNALILLO Subscribed and sworn to before me this 19 th day of 1ecember, 2005, by Caleb Crump. **NOTARY PUBLIC** OFFICIAL SEAL My commission expires: **KUAN MA** NOTARY PUBLIC STATE OF NEW MEXICO

My Commission Expires: 4-25-

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		21 22	Other income. List type and amount (Add the amounts in the far right column	see page 24) Nor lines 7 through 21	. This is	vour total inc	come ▶	22	9,823	16
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		35 36	Subtract line 35 from line 22. This is j				:	36	9,119	18

478-11-2825

SCHEDULE C (Form 1040)

Department of the Treasury Internal Revenue Service (U)

Profit or Loss From Business

(Sole Proprietorship)

▶ Partnerships, joint ventures, etc., must file Form 1065 or 1065-B.

Attachment Sequence No. 09

OMB No. 1545-0074

► Attach to Form 1040 or 1041. ► See Instructions for Schedule C (Form 1040). Name of proprietor Social security number (SSN) CALIB CRUMP Principal business or profession, including product or service (see page C-2 of the instructions) B Enter code from pages C-7, 8, 4 9 +U-SHOW **▶**|5| (|5| 0|0 |0 D Employer ID number (EIN), if any Business name. If no separate business name, leave blank. THE CALEB CRUMP SHOW City, town or post office, state, and ZIP code ALGUAUCAOW, N.M.87153 (2) Accrual (3) ☐ Other (specify) ▶ (1) Cash Accounting method: Did you "materially participate" in the operation of this business during 2004? If "No," see page C-3 for limit on losses ▶ □ Part I Gross receipts or sales. Caution. If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-3 and check here 2 Returns and allowances . . . 3 3 Subtract line 2 from line 1 Cost of goods sold (from line 42 on page 2) Gross profit. Subtract line 4 from line 3. 6 Other income, including Federal and state gasoline or fuel tax credit or refund (see page C-3) . 7 Gross income. Add lines 5 and 6 038 Expenses. Enter expenses for business use of your home only on line 30. Part II 8 4.3 83 19 19 Pension and profit-sharing plans Advertising . 20 Rent or lease (see page C-5): Car and truck expenses (see 8.061 20a a Vehicles, machinery, and equipment . page C-3), 10 20b b Other business property. 10 Commissions and fees 21 11 21 Repairs and maintenance . Contract labor (see page C-4) 22 12 08 22 Supplies (not included in Part III) 12 23 Taxes and licenses Depreciation and section 179 24 Travel, meals, and entertainment: expense deduction **(not** 24a included in Part III) (see a Travel . . 6.999 13 page C-4) b Meals and 380 entertainment Employee benefit programs c Enter nondeduct-(other than on line 19), ible amount in-15 insurance (other than health) cluded on line 24b Interest: (see page C-5) 16a 244 a Mortgage (paid to banks, etc.) . d Subtract line 24c from line 24b 25 16b 25 Utilities b Other 26 26 Wages (less employment credits) . 17 Legal and professional 250 00 27 Other expenses (from line 48 on 17 services page 2) . . . 27 18 Office expense 18 1,405 00 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns > Tentative profit (loss). Subtract line 28 from line 7 29 30 Expenses for business use of your home. Attach Form 8829 . . . Net profit or (loss). Subtract line 30 from line 29. . If a profit, enter on Form 1040, line 12, and also on Schedule SE, line 2 (statutory employees, 9.823 see page C-6). Estates and trusts, enter on Form 1041, line 3. If a loss, you must go to line 32. 32 If you have a loss, check the box that describes your investment in this activity (see page C-6). • If you checked 32a, enter the loss on Form 1040, line 12, and also on Schedule SE, line 2 32a All investment is at risk. (statutory employees, see page C-6). Estates and trusts, enter on Form 1041, line 3. 32b Some investment is not If you checked 32b, you must attach Form 6198. at risk.

Sche	luie C (Form 1040) 2004			Page 2
Par	Cost of Goods Sold (see page C-6)			
33			her (attach explanation)
34	Was there any change in determining quantities, costs, or valuations between opening and closing in "Yes," attach explanation			☐ No
35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	35		_
36	Purchases less cost of items withdrawn for personal use	36		<u> </u>
37	Cost of labor. Do not include any amounts paid to yourself	37		1
38	Materials and supplies	_38_		
39	Other costs	39		<u> </u>
40	Add lines 35 through 39	40	i	
41	Inventory at end of year	41		
Pa	t IV Information on Your Vehicle. Complete this part only if you are claiming line 9 and are not required to file Form 4562 for this business. See the instance C-4 to find out if you must file Form 4562.			
43	When did you place your vehicle in service for business purposes? (month, day, year) ▶	!.	· · · · ·	
44	Of the total number of miles you drove your vehicle during 2004, enter the number of miles you used you		•	
а	Business b Commuting c Other			
45	Do you (or your spouse) have another vehicle available for personal use?			No
46	Was your vehicle available for personal use during off-duty hours?			□ No
47a	Do you have evidence to support your deduction?] No
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48	Total other expenses. Enter here and on page 1, line 27	48	9.360	34